

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
REDWOOD WIRELESS MINNESOTA, L.L.C.)	File Nos. 0000865856 and 0000865938
and REDWOOD WIRELESS WISCONSIN,)	
L.L.C.)	
)	
Request for a Waiver and Extension of the)	
Broadband PCS Construction Requirements)	

ORDER

Adopted: November 6, 2002

Released: November 7, 2002

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, we address the requests by Redwood Wireless Minnesota, L.L.C. ("Redwood MN") and Redwood Wireless Wisconsin, L.L.C. ("Redwood WI") (collectively, "the Petitioners") for waiver and extension of time to meet the construction requirements for two broadband Personal Communications Services ("PCS") licenses.¹ Specifically, Redwood MN and Redwood WI seek a ninety-day extension of time, to commence upon Commission action on their Extension Requests, in order to satisfy their construction requirements under section 24.203(b) for stations KNLG214, the F-block license for Brainerd, Minnesota, BTA054 ("Brainerd BTA") and KNLH430, the F-block license for Grand Forks, North Dakota, BTA166 ("Grand Forks BTA"). For the reasons stated below, we deny the Extension Requests and find that the Petitioners' licenses terminated automatically on April 28, 2002.

II. BACKGROUND

2. Redwood MN is the licensee of four broadband PCS licenses, including KNLG214, the 10 MHz F-block authorization in the Brainerd BTA. Redwood WI is the licensee of eleven broadband PCS licenses, including KNLH430, the 10 MHz F-block authorization in the Grand Forks BTA. Both Redwood MN and Redwood WI are controlled by Redwood Wireless Corporation ("RWC"), a subsidiary of Redwood County Telephone Company, which holds a 55% ownership interest in the Petitioners. Northeast Communications of Wisconsin, Inc. ("Northeast") holds a 45% ownership interest in the Petitioners. Pursuant to section 24.203(b) of the Commission's rules, 10 MHz broadband PCS licensees are required to provide service to at least one-quarter of the population of their BTAs or make a showing of substantial service within five years of initial license grant.² Based on the original grant date of the subject licenses, the five-year deadline for both licenses was April 28, 2002. On April 26, 2002, the Petitioners filed the subject Extension Requests, asking for an additional ninety days (from the date of

¹ See File No. 0000865856, filed April 26, 2002 ("Brainerd Request") and amended on August 28, 2002 ("Brainerd Amendment"), by Redwood MN; File No. 0000865938, filed April 26, 2002 ("Grand Forks Request") and amended on August 28, 2002, by Redwood WI ("Grand Forks Amendment") (collectively, "Extension Requests").

² 47 C.F.R. § 24.203(b).

Commission action on the Extension Requests) to complete construction of these two BTAs. On August 28, 2002, the Petitioners filed amendments to their Extension Requests to provide supplemental information in response to informal requests from Commission staff.³

III. DISCUSSION

3. The Petitioners acknowledge that they did not satisfy the construction requirement set forth in section 24.203(b) of the Commission's rules for 10 MHz PCS licenses. Pursuant to sections 1.946(c) and 1.955(a)(2) of the Commission's rules, a broadband PCS license will terminate automatically as of the construction deadline if the licensee fails to meet the requirements of section 24.203, unless the Commission grants an extension request or waives the PCS construction requirements.⁴ Accordingly, without grant of extension of time or a waiver of the PCS construction rule, the subject licenses for the Brainerd and Grand Forks BTAs automatically terminated as of the April 28, 2002 construction deadline. An extension of time to complete construction may be granted, pursuant to sections 1.946(e) and 24.843(b) of the Commission's rules, if the licensee shows that the failure to complete construction is due to causes beyond its control.⁵ Furthermore, in recognizing that compliance with the broadband PCS construction requirements may be difficult at times, the Commission has stated that, in situations in which the circumstances are unique and the public interest would be served, it would consider waiving the PCS construction requirements on a case-by-case basis.⁶ Waiver may be granted, pursuant to section 1.925 of the Commission's rules, if the petitioner establishes either that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁷ As discussed below, we find that the Petitioners fail to satisfy the criteria for grant of an extension of time to satisfy their construction requirement and/or grant of a waiver of the construction requirement.

4. The Petitioners contend that delays in construction were the result of "reliance upon the management services of an experienced company" and consequently devote considerable portions of their Extension Requests to detailing the formation and subsequent dissolution of their management agreement.⁸ By way of background, the Petitioners explain that, upon acquisition of the licenses, RWC's president realized "that he was inexperienced in wireless system operations" and therefore sought assistance in developing their licenses. RWC entered into an agreement with Northeast to assign the licenses to newly formed limited liability companies (LLC), in which Northeast would have an ownership interest.⁹ These assignments were consummated on January 17, 2000.¹⁰ RWC also entered into

³ See Brainerd Amendment; Grand Forks Amendment.

⁴ 47 C.F.R. §§ 1.946(c), 1.955(a)(2), 24.203.

⁵ 47 C.F.R. §§ 1.946, 24.843. Section 1.946(e) also states specific circumstances that would not warrant an extension of time to complete construction. 47 C.F.R. § 1.946(e)(2)-(3).

⁶ See Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, *Memorandum Opinion and Order*, 9 FCC Rcd 4957, 5019 (1994) (*PCS MO&O*), citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

⁷ 47 C.F.R. § 1.925. Alternatively, pursuant to section 1.3, the Commission has authority to waive its rules if there is "good cause" to do so. 47 C.F.R. § 1.3. See also *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

⁸ Brainerd Request at 2-6; Grand Forks Request at 2-6.

⁹ See File No. 0000017125, filed July 23, 1999, as amended on October 21, 1999, October 22, 1999, and December 1, 1999; File No. 0000017126, filed July 23, 1999, as amended on October 20, 1999, October 21, 1999, October 22, 1999, October 25, 1999, and December 1, 1999.

management agreements with New-Cell, Inc. (“NewCell”), a subsidiary of Northeast. According to the Petitioners, business problems subsequently “bec[ame] apparent in the performance of management services by NewCell,” including “higher than anticipated costs and capital calls, the inability to obtain a loan, management questions, and basic policy and strategic decisions about development of the licenses.”¹¹ On June 20, 2001, the parties met to discuss these disputes and decided “to disengage themselves and arrive at an equitable allocation of the licenses and other assets held by the two LLCs.”¹² The Petitioners then suspended “all development work . . . pending [separation] negotiations.”¹³ The Petitioners state that “RWC constantly sought prompt resolution so that development of the license areas . . . could begin.”¹⁴ According to the Petitioners, “[t]here was no practical means for the majority owner of [the Petitioners] to invest funds and move forward with construction until an agreement was reached,” and “[h]ad the majority owner . . . put money into construction before a termination agreement was reached with the 45% manager, any such investment would have been split according to the management agreement.”¹⁵ The Petitioners state that they were unable to reach agreement regarding dissolution of the LLCs and allocation of the licenses until March 7 and 8, 2002.¹⁶ Upon termination of the agreement, “with only 6 weeks left before the construction deadline,” the Petitioners “engaged in site planning, market research and construction” for both markets.¹⁷ With respect to the Grand Forks BTA, Redwood WI attempted to obtain a suitable site lease during the week of March 11, 2002, but claims that it encountered delays in finding a site.¹⁸ With respect to the Brainerd BTA, although Redwood MN initially was able to put up antennas, it was forced to discontinue operations due to harmful interference caused to another licensee.¹⁹ By way of explanation, Redwood MN states that “[t]he site acquisition person . . . did not realize that the tower on which the Redwood antennas were mounted already was a ‘hot’ tower.”²⁰ The Petitioners compare their circumstances to those of *Leap Wireless*,²¹ where the Commercial Wireless Division of the Wireless Telecommunications Bureau “considered the timing of the license acquisition and the new licensee’s diligence in pursuing construction after acquiring the licenses as factors,” as well as the fact that the markets at issue were small- to mid-sized.²²

5. The Petitioners further argue that the rural customers of these markets will benefit from the Petitioners’ new PCS systems and that they have “purchased equipment that will support an offering of high speed wireless services, and [are] developing service plans to introduce such high speed

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¹⁰ See File Nos. 0000070538 and 0000070540, filed January 18, 2000.

¹¹ Brainerd Request at 3-4; Grand Forks Request at 3-4.

¹² Brainerd Request at 4; Grand Forks Request at 4.

¹³ Brainerd Request at 6; Grand Forks Request at 6.

¹⁴ *Id.*

¹⁵ Brainerd Amendment at 1; Grand Forks Amendment at 1.

¹⁶ Brainerd Request at 6; Grand Forks Request at 6.

¹⁷ Brainerd Request at 10; Grand Forks Request at 10.

¹⁸ Grand Forks Amendment at 2-3.

¹⁹ Brainerd Request at 1; Brainerd Amendment at 2.

²⁰ Brainerd Amendment at 2.

²¹ Leap Wireless International, Inc., Request for Waiver and Extension of Broadband PCS Construction Requirements, *Memorandum Opinion and Order*, 16 FCC Rcd 19573 (Comm. Wir. Div. WTB 2001) (“*Leap Wireless*”).

²² Brainerd Request at 9-10; Grand Forks Request at 9-10.

services.”²³ The Petitioners reference the Division’s decision in *Monet Mobile Networks, Inc.*,²⁴ wherein the Division granted an extension of time to comply with construction benchmarks, conditioned upon the deployment of high data rate technology.²⁵ Finally, the petitioners claim that, absent grant of the Extension Requests, these markets may go unserved “for several years” due to the time necessary to re-auction the spectrum and to re-set the five-year construction deadline for a new PCS licensee.²⁶ The Petitioners also argue that “requiring compliance with objective 5-year, mid-license-term build-out requirements for PCS is at odds” with construction requirements for other wireless licensees, thereby raising parity concerns that should be taken into consideration in evaluating the Extension Requests.²⁷ In support of their argument, the Petitioners reference other wireless services, such as 218-219 MHz and 39 GHz, in which the licensees are subject to only a ten-year construction requirement.²⁸

6. Based upon the record before us, we find that the Petitioners do not demonstrate that their failure to construct in a timely manner was due to circumstances beyond their control and, for this reason, do not warrant an extension of time pursuant to sections 1.946(e) and 24.843(b). We reject the Petitioners’ arguments that the delays constitute circumstances beyond their control because they “were the direct result of . . . reliance upon the management services of an experienced company which, for a variety of reasons, did not perform as . . . expected.”²⁹ We note that RWC, as the controlling interest holder, is presumed to have both *de jure* and *de facto* control of the subject licenses, notwithstanding the presence of a management agreement with a third party. As the Petitioners admit, there was a “need for RWC to retain control over all operations in view of its majority and controlling interest in the two LLCs.”³⁰ Accordingly, ultimate responsibility for construction of these licenses resided with RWC at all times and not with NewCell, even when the management agreement with NewCell was in effect. We therefore find that the Petitioners reasonably should have been able to continue with their construction efforts, *i.e.*, but for the exercise of the Petitioners’ own business judgment, nothing prevented the Petitioners from constructing in a timely manner.

7. In addition, we find that the Petitioners’ disputes with Northeast/NewCell do not constitute circumstances “beyond their control.” On the contrary, we find that the myriad disagreements cited by the Petitioners -- ranging from disputes concerning the authorization of capital calls to the proper valuation of the assets accumulated in each license area -- arose from the execution and dissolution of private, voluntary contracts and, as such, were within the Petitioners’ control. As has been noted in the context of another extension request, “in its licensing of various wireless telecommunications services, the Commission has repeatedly ruled that business decisions made by licensees which ultimately prove misguided should not influence Commission determinations made in the course of managing the spectrum.”³¹ The Extension Requests plainly evidence that the Petitioners’ voluntary contractual

²³ Brainerd Request at 10; Grand Forks Request at 10.

²⁴ Monet Mobile Networks, Inc., Request for Waiver and Extension of the Broadband PCS Construction Requirements, *Order*, 17 FCC Rcd 6452 (Comm. Wir. Div. WTB 2002) (“*Monet Mobile Networks, Inc.*”).

²⁵ Brainerd Request at 10; Grand Forks Request at 10.

²⁶ *Id.*

²⁷ Brainerd Request at 10-11; Grand Forks Request at 10-11.

²⁸ Brainerd Request at 11; Grand Forks Request at 11.

²⁹ Brainerd Request at 12; Grand Forks Request at 12.

³⁰ Brainerd Request at 6; Grand Forks Request at 6.

³¹ See Bristol MAS Partners, Request for Extension of Time in which to Construct and Place into Operation Multiple Address System Stations WPJF864 through WPJF870, *Order*, 14 FCC Rcd 5007, 5009 (PSPWD WTB

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negotiations created construction delays throughout their license terms. For example, in forming the initial agreement with Northeast, the Petitioners state that “[i]ssues relating to sharing of responsibilities under the supervision and control of RWC resulted in delays in finalizing agreements” and “the two companies soon found that transforming an oral understanding of how the venture could be operated to a set of comprehensive legal documents was far more complex than originally anticipated.”³² As these contractual delays accumulated, the Petitioners should have anticipated that they would have difficulties in satisfying the construction requirement and should have taken measures to ensure timely construction. In fact, the Petitioners even admit that they suspended construction efforts pending resolution of their separation negotiations with Northeast/NewCell with less than one year remaining in their license terms.³³ The decision to suspend construction was a business decision that the Petitioners should have weighed against the foreseeable potential consequences of failing to construct in a timely manner, including potentially losing the subject licenses. In sum, the Extension Requests describe construction delays that resulted from business disputes that, as exercises of business judgment, were within the Petitioner’s discretion to resolve. We therefore find that the Petitioners do not warrant an extension of time pursuant to sections 1.946(e) and 24.843(b) of the Commission’s rules.

8. We also find that the Petitioners do not satisfy the criteria for grant of a waiver pursuant to section 1.925. Specifically, the Petitioners have not demonstrated that application of the construction requirement in this case will frustrate the rule’s underlying purpose, nor have the Petitioners demonstrated unique or unusual circumstances sufficient to justify a waiver. The Commission’s construction requirements are intended to ensure that the PCS spectrum is used effectively and made available to as many communities as possible.³⁴ Based on the record before us, it is apparent that extensive construction delays were the direct result of private disputes, including voluntary contractual arrangements, which were within the control of the Petitioners. While we recognize that the Petitioners have taken some initial steps towards constructing their PCS systems -- such as purchasing equipment -- these few actions were not taken until the last two months of their construction period. The Petitioners’ actions do not demonstrate the level of diligence expected of a licensee in meeting the construction requirements, particularly in this case, where the Petitioners have held the licenses for the entire license period and where the delays were the result of the Petitioners’ exercise of business judgment. The fact that Redwood MN was forced to discontinue operations due to their creation of harmful interference only supports our finding of a lack of diligence. Redwood MN failed to employ a site acquisition person until the final weeks prior to its construction deadline. Redwood MN admits that “[i]t was a mistake that a more experienced site acquisition person would not have made, but [Redwood MN] was unable . . . to retain an experienced PCS site acquisition person because of heavy demand . . . while many other licensees attempted to meet the April 28 build out deadline.”³⁵ While we recognize that a number of licensees may have been trying to construct systems at the same time, such delays were reasonably foreseeable; indeed, as Redwood WI acknowledges, “site acquisition problems are an unavoidable part of the construction process.”³⁶ We find that these delays could have been avoided had the Petitioners commenced

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1999) (denying a request for extension of time to construct where the construction delays resulted from business decisions and therefore could not be attributed to causes beyond the licensee’s control).

³² Brainerd Request at 2; Grand Forks Request at 2.

³³ Brainerd Request at 6; Grand Forks Request at 6.

³⁴ See *PCS MO&O* at 5018.

³⁵ Brainerd Amendment at 2.

³⁶ Grand Forks Amendment at 3. Furthermore, we note that section 1.946(e)(2) specifically advises licensees that extensions of time to construct “will not be granted for failure to meet a construction or coverage deadline due to delays caused by a failure . . . to obtain an antenna site” 47 C.F.R. § 1.946(e)(2).

construction of their markets in a timely manner, which they did not. We disagree with the Petitioners that their circumstances can be compared to those in *Leap Wireless*. In that case, Leap acquired unconstructed licenses on the post-auction secondary spectrum markets with just over one year left before the construction deadline and demonstrated diligence in constructing their licenses.³⁷ In contrast, the Petitioners have held their licenses for the entire five-year construction period. Further, as discussed above, the Petitioners' disputes with Northeast/NewCell do not constitute circumstances "beyond their control." As of their construction deadline, the Petitioners had done very little to deploy PCS networks in the two subject markets. Based on these circumstances, grant of a waiver would undermine the Commission's goals of ensuring the effective use of PCS spectrum and wide availability of services using that spectrum.

9. Furthermore, we do not believe that the potential public interest benefits raised by the Petitioners are sufficient to present good cause for grant of a waiver. The Petitioners argue that grant of an extension of time would serve the public interest because it will increase competition in rural markets.³⁸ While we agree that the provision of high speed data services would provide benefits to rural customers, the Petitioners simply state that they are "developing" plans to introduce high speed services.³⁹ We are not inclined to grant a waiver based on a general statement of intent to serve rural areas or to provide high speed data services when the Petitioners have done little toward constructing in the Brainerd and Grand Forks BTAs. The present case does not present circumstances similar to those in *Monet Mobile Networks, Inc.*, where the licensees entered into supply agreements the year prior to its construction deadline but could not obtain a commitment date from its vendors for the "high data rate" equipment until July 2002.⁴⁰ In contrast, the Petitioners in this case did not enter into equipment purchase agreements until less than two months before their construction deadline. In addition, other circumstances were present in *Monet Mobile Networks, Inc.* that make it inapposite to the present case, including the level of diligence demonstrated by the licensees and the fact that the licenses were acquired less than eighteen months prior to the five-year deadline.⁴¹

10. We also find that the Petitioners have failed to establish the presence of unique or unusual circumstances in this case. We find that business disagreements of the nature described in the Extension Requests are a foreseeable occurrence in conducting business transactions. The Petitioners have not presented any unique circumstances that distinguish them from other similarly situated licensees who voluntarily enter into contracts that they later believe to have been unfavorably executed or otherwise unsatisfactory. In the past, we have found unique circumstances based upon the licensees' presentation of a combination of factors that have resulted in construction delays -- for example, we have found unique circumstances sufficient to warrant grant of a waiver where the extension request was *de minimis* (six weeks), the licenses were acquired later in the term through assignment, the licensee acted diligently to satisfy the construction requirement, and the licensee committed to providing service to rural areas.⁴² Such a combination of factors is not present in this case.

³⁷ See *Leap Wireless* at 19580.

³⁸ Brainerd Request at 9-10; Grand Forks Request at 9-10.

³⁹ Brainerd Request at 10; Grand Forks Request at 10.

⁴⁰ See *Monet Mobile Networks, Inc.* at 6453.

⁴¹ See *id.* at 6454-6455.

⁴² See West Virginia PCS Alliance, L.C., Request for Waiver of Section 24.203(a) of the Commission's Rules for Broadband PCS License WPOH986 in the Cincinnati-Dayton MTA, Order, 16 FCC Rcd 18924 (Comm. Wir. Div. WTB 2001). See also Trustee in Bankruptcy for Magnacom Wireless, LLC and Telecom Wrap Up Group, LLC, Petition for Waiver and Extension of Broadband PCS Construction Requirements, Order, 17 FCC Rcd 9535 (Comm. Wir. Div., WTB 2002) (finding unique circumstances where the proposed assignee/licensee committed to

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11. We also reject the Petitioners' claim that application of the construction requirement is inequitable and unduly burdensome.⁴³ We dismiss the Petitioners' argument that "requiring compliance with objective 5-year, mid-license-term build-out requirements for PCS is at odds" with construction requirements for other wireless licensees and therefore raises parity concerns that should be taken into consideration in this case.⁴⁴ In essence, the Petitioners are arguing that the construction requirements for broadband PCS licensees should be modified to mirror those requirements imposed on other wireless licensees. This argument, however, is more appropriately raised in a petition for rulemaking. Moreover, the Petitioners fail to provide any reason why the PCS construction requirements are inequitable or unduly burdensome as applied to all PCS licensees. In fact, we note that, to date, the vast majority of PCS licensees whose deadlines have passed have notified the Commission that they have met their construction requirements. To the extent that broadband PCS licensees do have different construction requirements from licensees in other wireless services, the Commission has, when adopting specific construction requirements, taken into account various factors relevant to the spectrum in question, including the predicted likely uses of the spectrum, *e.g.*, fixed versus mobile wireless use,⁴⁵ and whether the spectrum is heavily encumbered.⁴⁶

12. Finally, we are not persuaded that an extension is warranted because, absent grant of such relief, these markets may go unserved for several years due to the time necessary to re-auction the spectrum and re-initiate a five-year construction deadline for a new licensee. First, our records indicate that all three counties that comprise the Brainerd BTA receive cellular coverage and significant portions of all fifteen counties that comprise the Grand Forks BTA receive cellular coverage.⁴⁷ In addition,

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providing service to rural and tribal areas, and engaged in diligent efforts to acquire and build out the markets, notwithstanding numerous complications, including the voluntary transfer of the licenses pursuant to a bankruptcy proceeding).

⁴³ See Brainerd Request at 12; Grand Forks Request at 12. We note that a showing that application of the construction requirement is inequitable or unduly burdensome is a necessary, but insufficient, aspect of seeking a waiver pursuant to section 1.925(b)(3)(ii). The Petitioners must *also* demonstrate that the rule is inequitable or unduly burdensome "[i]n view of unique or unusual factual circumstances," which they have not, as discussed above. See 47 C.F.R. § 1.925(b)(3)(ii).

⁴⁴ Brainerd Request at 11; Grand Forks Request at 11.

⁴⁵ In some circumstances where there was no clear indication what the spectrum would be used for, the Commission established a more flexible construction requirement -- for example, requiring the licensee to demonstrate that it has provided substantial service by the end of its license term. See, *e.g.*, In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Service, *Second Report and Order*, 12 FCC Rcd 12545, 12659 (1997) ("Without knowing the type of service or services to be provided, it would be difficult to devise specific construction benchmarks.").

⁴⁶ Incumbency can affect the actual benchmark (*e.g.*, 800 MHz EA Upper 200 channels have a channel capacity requirement) or the amount of time to meet the benchmark (*e.g.*, 700 MHz Band). See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *First Report and Order*, 11 FCC Rcd 1463, 1529 (1995); Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *First Report and Order*, 15 FCC Rcd 476, 505 (2000).

⁴⁷ ACC Minnesota License, LLC is providing service on the cellular A-block and RCC Minnesota, Inc. is providing service on the cellular B-block to all three counties in the Brainerd BTA. In addition, Verizon Wireless (VAW) LLC, WWC Holding Co., Inc., RCC Minnesota, Inc. Cellular 2000, ACC Minnesota License, LLC, Excomm LLC, North Central RSA 2 of North Dakota Limited Partnership, KETS Partnership, and North Dakota RSA No. 3 Limited Partnership are providing cellular service in the Grand Forks BTA.

multiple PCS carriers provide coverage to portions of these two BTAs.⁴⁸ While the Commission, to the extent possible, encourages multiple wireless carriers in an area in order to promote vigorous competition, the record in this case does not support the grant of a waiver of the PCS construction requirement for licensees who have not acted with a sufficient level of diligence. Second, *any* PCS licensee that requests an extension for a period of less than five years could make the same argument, and grant of a waiver on this basis alone would effectively undermine the construction rules adopted by the Commission.

13. Based on the foregoing, we find that the Petitioners do not warrant an extension of time and do not satisfy the criteria for a waiver of the PCS construction rule. We therefore deny the Petitioners' Extension Requests and find that the Petitioners' licenses for the Brainerd and Grand Forks BTAs automatically terminated on April 28, 2002, pursuant to sections 1.946(c) and 1.955(a)(2) of the Commission's rules.⁴⁹ Furthermore, in light of the automatic termination of the subject licenses, the Petitioners' license terms have ended and they are no longer eligible to pay the outstanding amount of their winning bid obligations with installment payments.⁵⁰

IV. ORDERING CLAUSE

14. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and sections 0.331, 1.925, and 1.946 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.925, 1.946, that the requests for waiver and extension of the broadband PCS construction requirements filed by Redwood Wireless Minnesota, L.L.C. and Redwood Wireless Wisconsin, L.L.C. on April 26, 2002, and amended on August 28, 2002, ARE HEREBY DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

⁴⁸ Leap Wireless is providing service to portions of Crow Wing and Cass counties using the E-block spectrum in the Brainerd BTA. *See* File No. 0000869891, filed April 30, 2002. In addition, VoiceStream Minneapolis, Inc. is providing service to portions of Crow Wing, Aitkin, and Cass counties using the B-block spectrum in the Major Trading Area that includes the Brainerd BTA (MTA012). *See* File No. 0000183040, filed July 7, 2000. Minnesota PCS Limited Partnership is providing service to portions of Grand Forks and Polk counties using C-block spectrum in the Grand Forks BTA. *See* File No. 0000594472, filed September 17, 2001 and amended on April 23, 2002. Monet Grand Forks LHC, Inc. is providing service to portions of Grand Forks and Polk counties using the D-block spectrum in the Grand Forks BTA. *See* File No. 0000878550, filed May 7, 2002. In addition, Wireless Co. L.P. appears to provide coverage along Interstate I-29, which goes through the Grand Forks BTA, using A-block spectrum. *See* File No. 0000151743 (filed June 2, 2000).

⁴⁹ 47 C.F.R. §§ 1.946(c), 1.955(a)(2).

⁵⁰ *See* 47 C.F.R. § 1.2110(g)(3)(ii); 24.716(b).